

**REMARKS**

Reconsideration of this application, as amended, is respectfully requested.

Initially, Applicants would like to thank the Examiner for the indication that claims 4 and 5 contain allowable subject matter. In response, claims 4 and 5 have been rewritten in independent form including the limitations of their base claim (original claim 1). Therefore, Applicants respectfully submit that claims 4 and 5 patentably distinguish over the cited references and are allowable.

In the Official Action, the Examiner rejects claims 1-3 and 6-27 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,549,288 to Migdal et al., (hereinafter "Migdal").

With regard to claims 10 and 15-27, the same have been canceled, thereby rendering the rejection thereof moot.

With regard to claims 1-3, 6-9 and 11-14, independent claims 1 and 14 have been amended to recite "an operation section for allowing an operator to input the information on projection of light including information on the time for projecting the light for the purpose of projecting the pattern in the image acquisition set" and independent claim 12 has been amended to recite "an operation section for allowing an operator to input the information on projection of light including information on the time for projecting light for the purpose of projecting the pattern in the continuous picking up."

The amendment to independent claims 1, 12 and 14 is fully supported in the original disclosure, particularly from page 22, line 22 to page 23, line 6 of the specification. Thus, no new matter has been entered into the disclosure by way of the present amendment to independent claims 1, 12 and 14.

In the 3-dimensional image acquisition apparatus, light projection unit and 3-dimensional reconstruction system of independent claims 1, 12 and 14, respectively, it is possible for an operator to specify when the pattern should be projected in the image acquisition set. By virtue of such a feature, it is possible to make the setting such that the pattern projection can be performed at an appropriate timing in various shooting patterns.

For example, for a normal subject, it is sufficient to project a pattern at the beginning or at the end of the image acquisition set. However, for a subject that changes its form over time, it is better to perform a normal image acquisition and a pattern projected image acquisition alternately.

Thus, with the claimed operation section, the 3-dimensional image acquisition apparatus, light projection unit and 3-dimensional reconstruction system of independent claims 1, 12 and 14, respectively, are capable of adding appropriate pattern projections for various subjects and in various image acquisition conditions. The 3-dimensional image acquisition apparatus, light projection unit and 3-dimensional reconstruction system of independent claims 1, 12 and 14, respectively, are simply not disclosed or suggested in any of the references or record, either individually or in combination.

In stark contrast, in Migdal, the order of projecting patterns is fixed and an operator cannot change such an order (see column 6, lines 52-60 of Migdal). In addition, none of the remaining references of record disclose a feature corresponding to the operation section of the 3-dimensional image acquisition apparatus, light projection unit and 3-dimensional reconstruction system of independent claims 1, 12 and 14, respectively.

With regard to the rejection of claims 1-3 and 6-27 under 35 U.S.C. § 102(e), a 3-dimensional image acquisition apparatus, a light projection unit and a 3-dimensional

reconstruction system having the features discussed above and as recited in independent claims 1, 12 and 14, respectively, is nowhere disclosed in Migdal. Since it has been decided that "anticipation requires the presence in a single prior art reference, disclosure of each and every element of the claimed invention, arranged as in the claim,"<sup>1</sup> independent claims 1, 12 and 14 are not anticipated by Migdal. Accordingly, independent claims 1, 12 and 14 patentably distinguish over Migdal and are allowable. Claims 2, 3, 6-9, 11 and 13 being dependent upon claims 1 and 12, are thus at least allowable therewith (claims 10 and 15-27 being canceled). Consequently, the Examiner is respectfully requested to withdraw the rejection of claims 1-3 and 6-27 under 35 U.S.C. § 102(e).

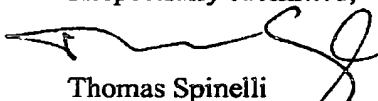
Lastly, claim 14 has been further amended to correct a grammatical error therein. Specifically, claim 14 has been amended to change "3-dimensionally reconstructing" to --3-dimensionally reconstruct--. No new matter has been entered into the disclosure by way of the further amendment to claim 14.

---

<sup>1</sup> Lindeman Maschinenfabrik GMBH v. American Hoist and Derrick Company, 730 F.2d 1452, 1458; 221 U.S.P.Q. 481, 485 (Fed. Cir., 1984).

In view of the above, it is respectfully submitted that this application is in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance issued. If the Examiner believes that a telephone conference with Applicant's attorneys would be advantageous to the disposition of this case, the Examiner is requested to telephone the undersigned.

Respectfully submitted,



Thomas Spinelli  
Registration No.: 39,533

Scully, Scott, Murphy & Presser, P.C.  
400 Garden City Plaza, Suite 300  
Garden City, New York 11530  
(516) 742-4343  
TS:cm